

Message Text

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ACTION DLOS-06

INFO OCT-01 IO-13 ISO-00 FEA-01 ACDA-07 AGR-05 AID-05

CEA-01 CEQ-01 CG-00 CIAE-00 CIEP-01 COME-00 DODE-00

DOT-00 EB-07 EPA-01 ERDA-05 FMC-01 TRSE-00 H-02

INR-07 INT-05 JUSE-00 L-03 NSAE-00 NSC-05 NSF-01

OES-06 OMB-01 PA-01 PM-04 PRS-01 SP-02 SS-15 USIA-06

SAL-01 AF-08 ARA-06 EA-07 EUR-12 NEA-10 /158 W
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P 181949Z AUG 76

FM USMISSION USUN NY

TO SECSTATE WASHDC PRIORITY 8725

C O N F I D E N T I A L SECTION 1 OF 2 USUN 3300

FROM US LOS DEL

E.O. 11652: GDS

TAGS: PLOS

SUBJ: LOS: WEEKLY CLASSIFIED SUMMARY LOS CONFERENCE
AUGUST 9-13, 1976

1. VISIT OF THE SECRETARY: WHILE A NUMBER OF DELEGATIONS DOUBTLESSLY FELT THAT THEY SHOULD HAVE BEEN INCLUDED IN THE SECRETARY'S SCHEDULE, THERE WAS A GENERAL FEELING THAT HE HAD MET WITH A FAIRLY REPRESENTED GROUP. OUR INITIAL REPORTS OF REACTION OF THOSE WHO MET WITH HIM ARE QUITE POSITIVE, ALTHOUGH IT IS DIFFICULT TO SAY WHETHER THIS WILL TRANSLATE INTO CHANGES OF SUBSTANTIVE POSITIONS. THE SECRETARY'S REFERENCES TO A RETURN VISIT TO THE CONFERENCE HAVE CREATED A SENSE OF ANTICIPATION. NEVERTHELESS, THERE IS A GROWING MOOD OF DESPONDENCY IN THE CONFERENCE AS A WHOLE.

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COMMITTEE I:

1. SITUATION IN COMMITTEE I (CI) IS CONFUSING AND UNPREDICTABLE. ON ONE HAND, MODERATE LDCS (MEMBER OF SECRET BRAZIL GROUP AT LAST SESSION) HAVE CLEARLY BECOME ACTIVATED IN G-77 AND ARE PRESSING HARD TO COUNTER EXTREMISTS POSITIONS ADVOCATED BY INDIA, MEXICO, GHANA, AND ARAB GROUP. THIS MODERATE ACTIVISM HAS BEEN PRIMARILY GENERATED BY US WARNINGS THAT SURVIVAL OF COMPROMISE ON ARTICLE 9 REACHED LAST SESSION DEPENDS ON ACCEPTANCE BY G-77 OF DUAL SYSTEM OF EXPLOITATION, COUPLED WITH AUTOMATIC ACCESS FOR US AND ITS NATIONALS. ON THE OTHER HAND, NEW ARTICLE 22 (SYSTEM OF EXPLOITATION) AGREED BY CONSENSUS IN G-77 ON FRIDAY, WHILE PRESERVING DUAL SYSTEM IN PRINCIPLE, HINTS AT SUBSTANTIAL LIMITATIONS ON ACCESS. STILL TENTATIVE AMENDMENTS AGREED IN G-77 CI CONTACT GROUP TO ACCESS PROVISIONS IN ANNEX I ALSO TEND TO REDUCE AUTOMATICITY OF STATE AND PRIVATE PARTY ACCESS. CLEAR MESSAGE OF G-77 DRAFT ARTICLE 22 IS THAT INTERNAL COMPROMISES BETWEEN LDC MODERATE AND EXTREMISTS ARE UNLIKELY TO BE CAPABLE OF USE AS BASIS OF NEGOTIATION. US AND OTHER INDUSTRIALIZED COUNTRIES MAY THEREFORE HAVE NO CHOICE BUT TO REJECT G-77 POSITIONS AND POSSIBLY PRECIPITATE FULL-FLEDGED CONFRONTATION IN CI.

2. LIKELIHOOD OF POLARIZATION IN CI IS INCREASED BY PROCEDURE TO BE USED FOR WORKING GROUP REPORTS. CO-CHAIRMAN'S REPORT SUBMITTED TO CI FORMALLY AUGUST 13 CONSTITUTED GENERAL RECORDING OF DEBATE, WITH DELS IDENTIFIED BY NAME. INDUSTRIALIZED COUNTRY ATTEMPTS TO OBTAIN CHANGE IN REPORTING PROCEDURE WERE DEFEATED BY CHAIRMAN ENGO'S RULING AT FRIDAY MEETING, AND EXTREMIST LDC DESIRE TO CREATE FORMAL QTE RECORD UNQTE OF G-77 PROPOSED AMENDMENTS TO RSNT FOR USE AT NEXT SESSION OF CONFERENCE.

3. KEY DIFFICULTY US DEL SEES IS THAT LDC MODERATES TRULY BELIEVE NEW POSITIONS AGREED IN G-77 ARE NOT EXTREME AND SHOULD FORM BASIS OF NEGOTIATION FROM US PERSPECTIVE. THERE IS NO GENUINE UNDERSTANDING THAT RSNT ON MOST ISSUES REPRESENTS BOTTOM-LINE OF US FLEXIBILITY AND THAT EVEN RSNT IS CONFIDENTIAL

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NOT ACCEPTABLE TO US ON KEY ACCESS PROVISIONS. EVEN IF WE ADOPT LOW-KEY TACTIC OF QUIETLY EXPLAINING OUR POSITIONS IN CI WORKING GROUP, BECAUSE OF THIS MISUNDERSTANDING G-77 IS LIKELY TO REEL WITH SHOCK. WE ANTICIPATE AFTERMATH OF SEVERAL WORKING GROUP MEETINGS ON SYSTEM OF EXPLOITATION WILL BE DEEP DESPAIR THAT TREATY ON CI ISSUES IS IMPOSSIBLE TO ACHIEVE. US DEL CANNOT PREDICT WHAT MAY OCCUR AFTER INEVITABLE PERIOD OF

DESPONDENCY SETS IN.

COMMITTEE II:

4. COMMITTEE II CONTINUED DEALING WITH THE PRIORITY ISSUES BY THE THREE NEGOTIATING GROUPS (NG'S). NG I (ECONOMIC ZONE) MET THREE TIMES. THESE MEETINGS SEEMED TO ESCALATE THE LEVEL OF RHETORIC. ON THE ONE HAND COUNTRIES SUCH AS PERU, URUGUAY, ECUADOR, AND THE PRC INSISTED THAT THE ECONOMIC ZONE BE CONSIDERED BEGIN UNDERLINE SUI GENERIS, END UNDERLINE BUT INCREASINGLY REFERRED TO IT AS A ZONE OF NATIONAL JURISDICTION. PERU MADE STRONG ATTACK ON BIG POWER DESIRE TO CONDUCT MILITARY ACTIVITIES IN ECONOMIC ZONE. ON THE OTHER SIDE, THE MARITIME POWERS, SUPPORTED BY THE EC-9, NATO COUNTRIES AND THE LL/GDS CONTINUED TO EMPHASIZE THE HIGH SEAS NATURE OF THE ZONE. AS HAS BEEN THE CASE ALL ALONG, THE SPLIT SEEMS TO BE EVEN, AND DEEP. SPECIFIC PROPOSALS WERE PLACED ON THE TABLE TOWARD THE END OF THE WEEK. THE EC-9 REINTRODUCED ITS PROPOSAL OF LAST SPRING, QUITE SIMILAR TO OUR OWN. IT WOULD DELETE REFERENCE TO THE ECONOMIC ZONE IN ARTICLE 75, BUT MAKE CLEAR THAT PROVISIONS RELATING TO THE HIGH SEAS WOULD APPLY TO THE ECONOMIC ZONE ONLY INsofar AS THEY ARE NOT INCOMPATIBLE WITH THE PROVISIONS RELATING TO THE ZONE. CONFORMING CHANGES WERE PROPOSED FOR ART. 44 AND 46. ON THE OTHER SIDE, URUGUAY TABLED PROPOSED DRAFT ARTICLES 44 AND 47 EXPLICITLY MAKING THE ZONE ONE OF NATIONAL JURISDICTION AND STRENGTHENING COASTAL STATE POWERS.

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TO SECSTATE WASHDC PRIORITY 8726

C O N F I D E N T I A L SECTION 2 OF 2 USUN 3300

FROM US LOS DEL

5. NG II (LL ACCESS TO THE SEA) MET THREE TIMES AND FOCUSED ON ARTICLES 109-117 PERTAINING TO ACCESS TO THE SEA BY LANDLOCKED STATES. DEMANDS FOR ACCESS ON THE ONE HAND WERE MET BY INSISTENCE FOR RECIPROCITY BY COASTAL STATES. AT THE CLOSE OF THE WEEK, WITH A PERCEPTIBLE NARROWING OF DIFFERENCE ON RECOGNITION OF REALITIES, A CHAIRMAN'S PROPOSAL TO FORM A SMALL GROUP TO NEGOTIATE THE ISSUE, TO BE SELECTED BY HIM, SEEMED TO MEET WITH GENERAL APPROVAL.

6. NG III (CONTINENTAL MARGIN) MET TWICE. IRELAND ONCE AGAIN TABLED THE PROPOSAL IT MADE LAST SPRING AND WHICH WAS NEGOTIATED WITH A NUMBER OF BROAD-MARGIN STATES. THIS PROPOSAL, WHICH WOULD GIVE THE COASTAL STATE THE OPTION OF CUTTING OFF ITS MARGIN AT A SPECIFIC MAXIMUM DISTANCE BEYOND THE SLOPE, OR AT A SPECIFIC DEPTH OF SEDIMENT, WAS SUPPORTED BY THE US DEL, WITH A SYSTEM OF REVENUE SHARING TO BE CONFIDENTIAL

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WORKED OUT FOR THE AREA BEYOND 200 MILES. SOME COUNTRIES ESPECIALLY THE ARAB GROUP CONTINUED TO INSIST ON A CUTOFF AT 200 MILES, WHILE OTHER SEEMED MORE FLEXIBLE (LL/GDS).

7. NEXT WEEK IT APPEARS THAT THE CHAIRMAN WILL ATTEMPT TO MOVE NG I AND NG III INTO TIGHTER NEGOTIATING MODES ALONG THE SAME LINES AS NG II. IF THE PRIORITY ISSUES CAN BE RESOLVED DURING THIS SESSION, US DEL BELIEVES HE WILL MOVE TO CONSIDERATION OF OTHER ISSUES ON THE PRESIDENT'S LIST (A/CONF.62/L.12) OR AS DECIDED BY THE COMMITTEE.

8. VISIT BY THE SECRETARY ON FRIDAY, AUGUST 13, PROVIDED OPPORTUNITY TO STRESS IMPORTANCE OF THE STATUS OF THE ECONOMIC ZONE TO THE US, WHILE INDICATING THAT THE ANSWER MIGHT LIE IN CLEARLY SETTING FORTH THE RIGHTS AND DUTIES OF COASTAL STATES AND THE

RIGHTS AND DUTIES OF OTHERS.

COMMITTEE III:

9. MARINE POLLUTION. COMMITTEE CONTINUED DISCUSSION OF QUESTION OF STANDARD SETTING IN TERRITORIAL SEA WITH A NUMBER OF MARITIME STATES, AS WELL AS SIGNIFICANT DEVELOPING COUNTRIES, SPEAKING IN FAVOR OF RESTRICTIONS TO PREVENT COASTAL STATES FROM SETTING DESIGN, CONSTRUCTION, EQUIPMENT AND MANNING REGULATIONS FOR VESSELS IN THE TERRITORIAL SEA. ALTHOUGH THE U.S. HAS RECEIVED SOME SUPPORT, THE MAJORITY VIEW FAVORS THE MARITIME POSITION. CHAIRMAN YANKOV WILL HOLD SMALL INFORMAL CONSULTATIONS ON THIS ISSUE LATE THIS WEEK AND WE WILL SEEK A COMPROMISE SOLUTION AT THAT TIME. WHILE A NUMBER OF OTHER POINTS HAVE BEEN MADE WITH REGARD TO THE VESSEL POLLUTION ARTICLES, SO FAR THERE IS NOT WIDESPREAD SUPPORT FOR ANY PARTICULAR CHANGE. THE SMALL NORWEGIAN CONSULTING GROUP (U.S., USSR, UK.K., NORWAY, CANADA, MEXICO, BRAZIL, INDIA, NEW ZEALAND, AND KENYA) IS MEETING DAILY TO WORK ON LESS SERIOUS AMENDMENTS AND TO TRY TO CLEAN UP THE POLLUTION TEXT WITHOUT HAVING LENGTHY DISCUSSIONS AT THE COMMITTEE LEVEL.
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10. SCIENTIFIC RESEARCH. CHAIRMAN YANKOV CONTINUES TO HOLD INFORMAL CONSULTATIONS ON THIS SUBJECT WITH ABOUT 30-35 COUNTRIES. HE HAS PRIVATELY INDICATED THAT HE WILL GIVE PRIORITY TO THIS ISSUE THIS WEEK. U.S. HAS TAKEN A VERY FIRM STAND AGAINST THE GENERAL CONSENT REGIME AND IN FAVOR OF CLEARLY SPECIFYING CATEGORIES OF SCIENTIFIC RESEARCH THAT WOULD REQUIRE COASTAL STATE CONSENT. BRAZIL, KENYA, SOMALIA, AND SOME OTHERS HAVE TAKEN AN EXTREME POSITION BY PROPOSING AMENDMENTS WHICH WOULD, IN PRACTICAL EFFECT, ESTABLISH A TOTAL COASTAL STATE CONSENT REGIME. THE CONSULTATIONS ON THIS SUBJECT ARE DEADLOCKED. THE AMENDMENTS PREFERRED BY THE UNITED STATES HAVE BEEN PROPOSED BY THE FRG. AT THE MOMENT THERE IS NO CLEAR SOLUTION TO THE PROCEDURAL PROBLEM OF DEADLOCK IN THE COMMITTEE. HOWEVER, SOME MODERATE STATES, SUCH AS AUSTRALIA, HAVE ADVISED US THAT THEY FEEL IT IS NECESSARY FOR DEADLOCK TO BE CREATED ON THIS ISSUE BEFORE A SOLUTION CAN EMERGE. ALSO A NUMBER OF COUNTRIES HAVE SAID, EITHER PUBLICLY OR PRIVATELY, THAT THEY FEEL THE SCIENTIFIC RESEARCH PROBLEM AND THE QUESTIONS OF THE HIGH SEA STATUS OF THE ECONOMIC ZONE MUST BE SOLVED TOGETHER IF A SOLUTION IS TO BE FOUND.

11. AMBASSADOR YANKOV HAS ESTABLISHED A TIMETABLE FOR THE COMMITTEE, WHICH WOULD REQUIRE THE INFORMAL CONSULTATIONS TO END BY AUGUST 20 AND ALL MEETINGS OF THE THIRD COMMITTEE TO END BY AUGUST 27.

COMPULSORY DISPUTE SETTLEMENT

12. DEBATE ON ARTICLE 9 GENERATED WIDESPREAD CRITICISM OF SPECIAL PROCEDURES (ANNEX II) ON BASIS THAT THEY WERE UNNECESSARY AND WOULD GENERATE DISPUTES OVER WHAT THE COMPETENT FORUM WAS. LATTER CRITICISM FOCUSED ON FACT THAT SPECIAL PROCEDURES AS SET FORTH IN RSNT, UNLIKE GENERAL PROCEDURES, APPLY BUT DO NOT INTERPRET CONVENTION. DISTINCTION IS SUBTLE AND REQUIRES TWO-STEP PROCEDURE WHERE INTERPRETATION IS INVOLVED IN DISPUTE. AT END OF DEBATE, USSR, WHICH IS MAIN SUPPORTER OF SPECIAL PROCEDURES
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CONCEDED THEY COULD BE AUTHORIZED TO INTERPRET AND APPLY CONVENTION.
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